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OF
CRIMINALS,

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A sick man once sent for a physician, who went promptly, and found the patient very ill. The sick man asked the physician if he had delayed too long in sending for him. Yes, replied the physician; you have delayed a long time; you ought to have sent for me sooner. Truly, you ought to have sent for me when your grandfather was a young man. You began to get sick at a time when your grandfather became afflicted with an incurable malady.

A child of the desert had been very wicked; he had told many lies, he had stolen many horses, and he had committed many murders. He chanced to meet an Arab philosopher, whom he asked to intercede for him, because he was under the anger of God on account of his many crimes. The Arab philosopher then devoutly repeated to the God of the faithful the following prayer, namely: *O God, be kind to the wicked, for Thou hast been sufficiently kind already to the good in making them good.*

Once on a time, the good Shepherd had an hundred sheep. He kept them sheltered from the wind and storm, and fed them plentifully, and gave them fresh water to drink. One of the hundred sheep went astray, and was lost in the wilderness. The shepherd left the ninety-nine sheep, and sought the one that was lost, and did not rest

till he found him astray, and brought him back with a glad heart.

I once saw a man in the time when life should be at its prime. He had lost his mind, or, at least, the greater part of it; he abandoned his business; he neglected his person; he no longer had any affection for his family; he had threatened to take the lives of those who had been nearest and dearest to him. Well, this poor man had been infected with a certain disease when he was in his youth, and that disease had invaded the nerve-cells of his brain, and robbed them of the power to think, will, and act, so that what he could have wished to do he neither did nor could do. And it was kind and merciful that he died. And the autopsy revealed the written testimony of the disturbing factors that had worked ruin to the construction of his brain.

A man of middle age was found in one of our parks. He still held a pistol in his right hand; there was a bullet hole through the right side of his skull into his brain; the blood was yet slowly oozing, and the poor fellow was unconscious. It was discovered that he was an insane suicide, whose troubles were greater than he could bear, and who had drawn the veil of oblivion before his mental horizon by his own right hand. I removed the bullet from this patient's brain, and tried to keep him alive, but the disturbing factors were greater than the consistency of his organization. His physical system was dissolved into its original elements. An autopsy exhibited the facts that the membranes of his brain had long been in a state of inflammation, and that the nerve-cells, enabling him to think, will, and act, had been irreparably damaged.

Our standard of comparison is not the man who fell sick on account of the errors of his grandfather, nor the wicked son of the desert, nor the defenceless sheep astray, nor the

man who had broken the commandment in his youth, nor the suicide who had drawn the veil of oblivion before his own mental vision, but it is a man who has a good *heredity*, whose blood has been of prime quality, and has been flowing for generations in sound arteries, capillaries, and veins, whose brain, through its complex cells, thinks, wills, and acts well, because all the avenues that have led up to its complete organization have been accurately surveyed and properly constructed, whose nutrition has permitted the molecular elements of his various organs to rise to their complete co-ordination, and fall into their normal disintegration, who has had no gall-stones and no stones in his bladder, whose members and whose stomach have carried on a harmonious and profitable co-partnership, whose ancestors have not been sick, drunk, nor epileptic, and have not gone mad, insane, nor criminal.

Well, the man who does not get sick does not need a physician. The man who does not fall drunk does not need a keeper. The man who does not become insane does not need an asylum, and the man who does not go criminal does not need a prison. The sick man used to be treated by the sound of a beaten drum. The inebriate was handled with inhumanity. The insane were once chained in cages like wild beasts, and not so long ago as we might suppose. Criminals are incarcerated and *punished*.

We might as well ask ourselves at once, *What is punishment?* And then we might try to give, if we can, an honest answer, and perhaps our answer might be the one that is true. A careful formula will no doubt help to explain the word and let in some light on the fact of punishment. Punishment was *pœna* or *ποινή*, and meant *money paid as a compensation for murder*. That is, if a man had taken the life of another, he paid money to compensate for that life. Indeed, the compensation was for the loss sustained, for

an offence against the law, in a word, for a *crime*. Now it might happen that, if a man had stolen a sum of money, he might make restitution, and then there would be compensation for a theft. But if a thief could not make restitution, he might go to work and earn money enough to compensate the one he had robbed. Well, in a case of murder it would be very difficult to compensate either friends or society, for the one who has been murdered has passed beyond the sphere of compensation. There could be no compensation for the life of our story-telling president who had emancipated the slave and saved the life of the great republic. Nothing could pay for the life of another lamented president, whose blood was shed by the bullet of another assassin. Shall we say, in view of the supposed legal compensation for these two monstrous crimes, *so let it be to all insane criminals who raise their hands against human life?* Is the payment to be made by the the hangman's rope?

Does a man fall sick, why we try to cure him, but to *cure* means simply to *care* for him. He may have an incurable malady, and then we cannot cure him. A man may be crippled with an incurable lameness, and then he will need a crutch, and even then he cannot walk with ease or grace. A small boy may have disease of the spine. There follow deformation and impaired function. He suffers greatly on account of his misfortunes. We give him supports and braces as remedies for his ills. A man who has always been kind, benevolent, and moral has a tumor develop in his cerebellum, and he becomes a criminal monster. If he murders some one he is hung, if he commits rape he is lynched, and it is with difficulty that the doctor can get permission to examine his body after he is dead. What has a doctor to do with a man who is possessed of the devil? If a man is lame in his leg, send for a bone-setter; if he is lame in his brain, send for the hang-

man. The man's ancestor may have had a lame leg or a lame brain, or he may have had an accident happen to his leg or his brain. The usual practice is all the same.

In this place let us meet the question of a moral sense fairly. Is there such a thing as a moral sense? Yes, certainly there is a moral sense. When a man is just born he has two eyes, but he can't see; he is ready to begin to see. He is not born with the sense of seeing, but he is born with the nerve apparatus that contains the elements in which the sense of seeing is consummated. And when a man is just born he has a brain, but he can't think; he is ready to begin to receive impressions; he is not born with reason, but he is born with the nerve apparatus that contains the elements in which the power of the reason is consummated. And when a man is just born he has the various parts of his nervous system, but he has not as yet any conscience. He will in time begin to cognize impressions and principles, he will become *conscious* of facts and their relations and laws, the various faculties of his nervous system will be conscious, that is, they will, as it were, *know together* what is going on in the world of thought and what is going on outside of this world. At any rate, there will be consciousness to a limited extent. And one of the most consummate results of this consciousness, this knowing together of our faculties, consists in the discrimination of the qualities of actions. Now, we call this faculty of judging of the quality of an action *the moral sense*. And if a man was not born with the sense of seeing, and was not born with the power of reason, he certainly is not born with *the moral sense*. The moral sense evolves in due time.

Now if a man is getting ready to go insane, one of the first things to be noted is the impairment of his moral sense; he may discriminate well in other respects, but when he comes to consider the relations of the

morality of his actions, he shows incapacity, weakness, and indiscretion. In such a case the moral judgment is impaired. It need not be supposed that any particular part of the nervous system is the seat of the moral sense; for instance, this sense has no cortical centre. But it may be admitted that a serious disturbance in a part or all of the brain may bring about an impairment of the moral sense; and we need not illustrate this proposition by examples. And it may also be admitted that the moral sense of a man who goes insane may have been well-developed; he has been a useful, responsible, and well-behaved member of society, having for some reason lost the results of his moral development; insofar he is unsound, that is, he is insane, and is no doubt entitled to our pity, our sympathy, and our aid.

Suppose, now, that this man had never had a moral sense developed, that he had never become *conscious* of the morality of an action, good or bad; this may be due to the defective nervous system that he has inherited, or it may be due to the defective education that he has received. Of course, he could not judge of the moral qualities of actions, not even his own actions.

In what does the man who has lost his moral sense differ from the man who never had a moral sense? Let us see. A man who loves his wife and children, who does good to others as he would that they should do to him, whose patriotism would lead him in the defence of his home and country into the death-dealing hail of war's conflict, cannot at times stand against the temptations of inebriety; behold the change! He who was once so loving, gentle, kind, and brave, has become a monster, whose hand sheds the blood of those he loves. Is there anything that this man can do that will compensate for his deed? Can he pay for what he has done with his life? Again, a man who never loved anybody, who never did anybody any

good, who never knew the nature of patriotism, whose deeds were all diabolical, goes, under cover of the darkness of night, into the presence of one whom sleep has deprived of consciousness and self-defence, and with uplifted hand takes away an innocent life, and goes away blood-stained to be tracked by the officers of the law and brought to bar of *human* justice; and while he carried away from the victim a few miserable dollars, we may still ask why did he do this deed? My answer is: God only knows. Yet we may speculate in the following line: The progenitors of this man had deformed heads; the brain was deficient in some part, more especially the anterior part; they had been envired by those who habitually commit crimes; they had been educated in the school of misdeeds. And just as surely as the acorn will grow an oak, if it grows at all, will the embryo of this man, out of the mysterious elements of its organization, grow a criminal. And this criminal will be in the manacles and fetters of his hereditary organization. He is, to be sure, born innocent and innoxious, but then he is the offspring of his ancestors, and their crimes culminate in him. He had no voice in the selection of his father and his mother; he was in no wise consulted. His ancestors did not transmit to him a moral nature. If a man has no patrimony, it is not his fault. If a man is color-blind, we do not expect him to appreciate colors; and if a man is morally blind, how could we expect him to appreciate the qualities of actions, as to whether they are good or bad? Again, to go back to the inebriate, who, in an unfortunate time, has done an abhorrent deed; well, he, too, is the victim of heredity, that is, he is, as it were, bound hand and foot at moments, whose fruition sends its roots back for generations into the mysterious disturbance of the nervous system. This man had no voice in choosing and directing the habits of his ancestors. While he was yet to be, some one else laid the foundation

of the derangement and the purpose culminating in his terrible criminality. Now, if my premises are true, and if my reasoning is sound, how shall we escape the conclusion, *that the man who has lost his moral sense does not differ from the man that never had a moral sense?* Indeed, perhaps, the only difficulty we have to encounter is to decide who has the least, or the most moral sense.

But at this point we are met by what appears to be a grave objection; says the objector, *a man may be the father of several children, some of them having unusual talent, some of them being idiotic, and some of them being the worst of criminals.* This is at once admitted; and we are glad to reply to the objector, *that the human fig-tree may be engrafted with thorns and thistles.* At one time a fig ripens and falls; at another time the thorns grow out; and at another time the thistle-seeds are scattered to the four winds. A man may have exhausted his virility during his early manhood, and then beget sons who go mad and fall into incurable insanity; and he may still retain an intellect of remarkable power. A man may have had now and then an insane or a criminal ancestor, for, by a simple law of divergence, every man's ancestors, as we go back from him in time, are more numerous. One ancestor is propagated in an insane offspring, another ancestor is propagated in a daughter that is idiotic, and another ancestor is propagated in a son who murders his friend.

The concurrent and unanimous testimony of those who are, from their experience and their knowledge, most competent to judge is: That the great under class of criminals have more or less defective organizations, especially as relates to their nervous system, and more especially as relates to their brain; that they are more or less deficient in moral sense, showing in this respect the lack of development or the results of decay, the best and last-developed sense, the moral sense, disintegrating first of all; that

they are perversely wicked and indomitably inexpedient, committing crimes when doing right would be of more use to them; that they are as passionate as the wild beasts of the forests, and as restless as the ocean that heaves at every gust of the wind; that they are at war with mankind and ever in commotion with themselves; that they are, like the ship, beaten about by the storm—the ship without compass, rudder, or captain; that they are formed and fashioned by the hand of an evil genius, whose name is bad heredity, and whose hand-maid is ignorance; and that they cannot be very much *reformed*, and that their *reformation ought to have been begun in their ancestors*.

It would seem as if an indictment was being made, when I am making a plea in regard to the treatment of criminals. If the upright and conscientious attorney can make a plea for the individual criminal, then, gentlemen, permit me to make a plea on the merits of the case for the criminal class; and if an indictment of the society in which criminals live should be heard in the shadow of my words, or be read between the lines, yet must I persist in my plea; and the judge who expounds the law, and the lawyer who pleads for or against the criminal, and the physician who studies his physical and mental condition, ought to listen with intelligent respect to words that plead for the wise consideration and the just treatment of the most miserable of men.

It is, let me remark, one of the advancements of modern medicine that it is beginning to teach us how to *prevent* disease. How much distress does not now come into the world! And how much the sum of human happiness is augmented they only know who have comprehended the mission of preventive medicine. And it is now beginning to dawn on the minds of men that the greatest need of all in the treatment of criminals is to apply the principles of the *prevention of crime*. Is it not wise, right, and just after all to give the one who has criminal instincts a chance to

reform before he becomes an actual criminal? Let us go back to the criminal's ancestors. The remedy of prevention should begin there where there should be obedience to physical and moral laws. The obedient ancestor prevents disease and crime in those who come after him. And now it begins to be plain why the judge, the jury, and the hangman come too late to reform the criminal. It was needful that his father or his grandfather should have had a little of that knowledge on account of a lack of which the people perish. Is it not true that the physician had more than ordinary wisdom who said that his patient ought to have sent for him when his grandfather was a young man?

The poorhouse, the jail, and the prison are costly luxuries. The vast sums expended in the construction and the support of these places would perhaps bear better fruit if they had been used in the education of those who have not the knowledge competent for self-support, as well as those who deem it right for them to appropriate the goods and to destroy the lives of others. Here, again, the objector comes in to say: "Do not presidents of banks and superintendents of Sunday-schools go criminal?" Oh, yes, that is so. My only answer to this is: Do not criminals in embryo become presidents of banks and superintendents of Sunday-schools, and, when the time comes, go criminal? No good reason has ever been given, and never can be given, why those who are so organized that they are liable to commit crimes should continue ignorant, should not be educated. They should be educated in the laws of morality, and taught the elements of the laws of the land in which they live. They should be taught, if possible, how important and valuable it is to have something to do, to have a legitimate occupation. In fact, every member of society should have a vocation, and there should be an imperative law compelling every one to work. The poor in the poorhouse should work accord-

ing to their strength, and help to contribute to their support. And many a criminal diathesis could be managed and utilized by work, by an education that looks toward utility and support. That republic is by no means ideal that is filled with paupers, criminals, and tramps. The song of the wandering minstrel may be sweet and pathetic, and it may for a time sing to sleep an inherent criminal monster. It is the policy of the State to make those who have committed crimes contribute to their support by work; let the State see to it that those who are born with the criminal diathesis are kept at work. Habits of industry are good for those who are inclined to be criminals. In fact, the power of habit is strong for good or for evil. Habit contains an automatic sequence that will operate in the line of self-supporting industry, and prevent many a person having a criminal diathesis from diverging into a life of misdeeds.

We have criminals always with us, and a little effort at proper treatment to-day and apathy for the rest of the year will do no good. The subject requires careful systematic consideration and persistent effort, day by day, and year by year. It is a problem in which every individual, from the lowest to the highest, is deeply interested. Strength comes not by observation, but by helpful industry in all the legitimate fields of labor. And to this end should the education of these afflicted beings tend. How much better it would be for the sustaining influences of the strong and good to be always thrown around the weak and bad, and thus prevent them from leading lives of crime, than it is to build prisons and surround them with bars, bricks, and stones! I know that prisons are necessary—not the prisons we have now; they blot the pages of our civilization—but prisons that are calculated to reform the prisoner. A man has small-pox; he is taken to the pest-house; it was not his fault; the people sequester him;

the pesthouse ought not to add any perils; in this way, the disease is kept from spreading; it had been better to have prevented this man from having a loathsome disease; but it is right to protect others from a too frequently fatal malady. A man commits a crime; he is taken to the prison; it may not have been his fault; the people sequester him; the prison ought not to add any perils; in this way, others are kept from being injured; it had been better for this man to have been kept from committing crime; but it is right to protect others from the depredations of the criminal. One of these cases is quite parallel with the other: great is sanitary medicine, but greater still is the *prevention* of crime.

And let me add that the inflictions of punishment for revenge will always defeat its ends and aims. The scales of justice will never balance on the point of that principle. There must be a legal compensation for crime; let it be, if you please, in the shadow of eternal justice. It is claimed that the law seeks the good of the State; but the criminal is part of the State, and must be included in the good of the State, which cannot be advanced by making the criminal worse. Look at this subject in whatever light you may, a great responsibility rests on the State in its treatment of criminals, not only in modifying prenatal conditions, but also in adjusting postnatal circumstances, when the criminal diathesis is at war with its environment, trying to attain a successful manhood, or trying to flee from the sword of justice, or, as best it may, trying to make compensation for the wrong that it has accomplished, being under restraint in such prisons as we now have, or, if it could be so, in the future ideal prison of reform.

Some one asks: "Shall we not punish the criminal?" I have not said that we should not. Every man should pay what he owes. What I have said is that the State should treat the criminal, and should treat him justly. And

the treatment of the criminal should contain everything that such a humane and generous word implies. The great criminal class should be taken *care* of with a wise foresight under the highest and best administration of affairs, based on the most complete understanding of the laws that govern society and the State, and the laws that dominate the physical and mental development and well-being of man.

